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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,959	03/25/2004	Thomas H. DeArmond JR.	P 1093.14002	9806
30615	7590	10/21/2004	EXAMINER	
BIRDWELL, JANKE & DURANDO, PLC 1100 SW SIXTH AVENUE SUITE 1400 PORTLAND, OR 97204			SALDANO, LISA M	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/810,959	DEARMOND, THOMAS H.
	Examiner Lisa M. Saldano	Art Unit 3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 March 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-20 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/25/2004</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1, 5, 12, 15 and 16 are objected to because of the following informalities:

Regarding claims 5 and 12, the applicant recites limitations directed to units. However, prior claim language from which these limitations depend fail to make prior mention of units. Please provide clarity regarding the recited units detailing exactly what the units are.

Regarding claims 1, 15 and 16, the applicant recites limitations directed to "stonelike objects." The phrase "stonelike" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by the affix "like"), thereby rendering the scope of the claim(s) unascertainable.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, 6, 7 and 9-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Bertolini (6467224).

Regarding claims 1 and 6, Bertolini discloses decking tile 10 that is capable of functioning as a support structure for stonelike objects (see Figs. 1&2). The support structure comprises a rectangular base, at least two sets of a plurality of guides or tabs 38 disposed on the base at opposing edges and oriented substantially perpendicular thereto. Bertolini further discloses a plurality reinforcing members or struts (diagonals members 16) disposed on the base and attached to respective tabs or guides 38 so as to brace the tabs and receive objects for the support thereof.

Regarding claim 2, Bertolini discloses a base comprising a substantially planar base with intersecting cross members (longitudinal and transverse members 16) connecting edges of the frame.

Regarding claim 7, Bertolini discloses a substantially rectangular base with openings 12 for water drainage.

Regarding claim 9, Bertolini discloses struts (diagonals members 16) that are disposed parallel to one another.

Regarding claim 10, Bertolini discloses struts (diagonals members 16) that are relatively tall compared to their width.

Regarding claim 11, Bertolini discloses reinforcing members or struts (diagonals members 16) that span the space between two sets of a plurality of guides or tabs 38 (see Fig.2).

Regarding claims 12 and 13, Bertolini discloses connecting means comprising first and second components 40 and 42 whereby two adjacent support structures may be connected to one another (see column 4, lines 46-54). Adjoined support structures may be rolled-up.

Regarding claim 14, Bertolini discloses that the connecting means comprise inwardly directed portions or snaps 46.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bertolini as applied to claims 1 and 2 above.

Bertolini discloses the invention as described above. Specifically, Bertolini discloses a substantially rectangular base with openings 12 for water drainage. The guides or tabs 38 are separated by “substantially U-shaped” spaces (see Fig. 7c). Bertolini further discloses struts

(diagonals members 16) that are disposed parallel to one another. The struts (diagonals members 16) are relatively tall compared to their width.

Regarding claim 4, Bertolini discloses reinforcing members or struts (diagonals members 16) that span the space between two sets of a plurality of guides or tabs 38 (see Fig.2).

Regarding claim 5, Bertolini discloses connecting means comprising first and second components 40 and 42 whereby two adjacent support structures may be connected to one another (see column 4, lines 46-54).

Although Bertolini fails to disclose that the guides or tabs 38 are separated by

- “substantially V-shaped” spaces, it would have been obvious to one of ordinary skill in the art to separate the tabs in any shape that maintains the structural integrity of the guides or tabs but allows drainage of water. Since the applicant does not disclose the criticality of having “substantially V-shaped” spaces, a change in shape of “substantially U-shaped” to “substantially V-shaped” spaces is an obvious change in shape. Both shapes are functional equivalents in this situation.

6. Claims 15 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harp (1,088,417).

Harp discloses a bond for hollow wall construction comprising a sheet metal plate 4 that functions as a support structure for objects 9 wherein the objects may be building blocks, slabs, tile or other elements of like character (see lines 10-15). The hollow wall may be a retaining wall. The plate 4 comprises a base with at least two sets of a plurality of tabs 5,6 at respective opposing edges of the base. The tabs 5,6 are oriented perpendicular to the base. The metal plate

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is placed on a support structure comprising like objects 9 and additional objects 9, which may be stonelike as described above, are placed on the support structure between the set of tabs 5,6 (see Figs.1-3).

Although Harp does not explicitly disclose that his invention comprises a method for supporting stonelike objects on soil, Harp explicitly discloses that the invention pertains to construction that is designed to hold elements together during the process of laying walls. It would have been obvious to one of ordinary skill in the art at the time of the invention to develop the method steps claimed by the applicant from Harp's disclosure, because Harp discloses the basic method steps required in the method claimed by the applicant of the present invention.

Furthermore, regarding claim 19, it would be obvious to place a portion of the base of one of the supporting metal plates at the surface of the ground to prepare the setting mark for the subsequent installation of blocklike elements for building the wall. The support element placed on the ground provides a stable foundation on which to install the remainder of the wall elements.

7. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harp as applied to claim 15 above in view of Nelson (US2003/0154663A1).

Harp discloses the invention as described above. Specifically, Harp discloses a bond for hollow wall construction comprising a sheet metal plate 4 that functions as a support structure for objects 9 wherein the objects may be building blocks, slabs, tile or other elements of like character (see lines 10-15).

However, Harp fails to disclose that the stonelike object may be a headstone.

Nelson discloses a headstone support brace wherein the headstone comprises a vertical wall (see Figs.1&2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to use the support sheet metal plate of Harp during construction of a vertical wall headstone, such as the headstone illustrated by Nelson, because Harp discloses that the invention pertains to construction that is designed to hold elements together during the process of laying walls. The constructed wall could potentially be a headstone, as taught by Nelson. Furthermore, it would be obvious to place a portion of the base of one of the supporting metal plates beneath the surface of the ground to prepare the setting mark for the subsequent installation of blocklike elements for building the wall. The support element placed just below the ground provides a stable foundation on which to install the remainder of the wall elements.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Curlett (863,786) and Hiyashi (5,006,011) disclose features that are pertinent to the present application.

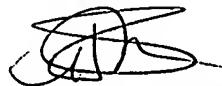
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lisa M. Saldano whose telephone number is 703-605-1167. The examiner can normally be reached on Monday-Friday, 8:30am-5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on 703-308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lms



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